

APPLICATION FOR VARIATION OF PREMISES LICENCE 'THE DOG INN, EWYAS HAROLD, HR2 0EX' - LICENSING ACT 2003

Report By: Head Of Environmental Health And Trading Standards

Wards Affected:

Golden Valley South

1. Purpose

To consider an application for variation of the premises licence in respect of The Dog Inn, Ewyas Harold, HR2 0EX.

2. Background Information

Applicant	Tony BLOWS		
Solicitor	Poppleston Allen, 37 Stoney Street, The Lace Market, Nottingham. NG1 1LS.		
Type of application: Variation	Date received: 03/08/05	28 Days consultation 31/08/05	Issue Deadline: 02/10/05

The Justices Licence has been seen and accepted. The advertisement for the premises has not seen at this time.

3. Conversion Licence Application

The premises currently hold a Justices On Licence. A conversion licence, has been issued as follows; -

Licensable activity	Hours
Sale of alcohol on and off the premises	Mon-Sat 1000 to 2300 hours
	Sun 1200 to 2230 hours
	Good Friday 1200 to 2230 hours
	Christmas Day 1200 to 1500 hours and 1900 to 2230 hours.
	New Years Eve 1000 hours to 2300 hours
	New Years Day

With the following condition attached: -

- The premise will be permitted to open for up to 30 minutes after the end of the sale of alcohol. (Drinking up time).

The premises do not hold a public entertainment licence.

4. Variation Licence Application

The application for a variation has received representations by responsible authorities and interested parties. It is therefore now brought before the sub-committee for determination.

5. Summary of Application

The licensable activities applied for are: -

Indoor Sporting Events *

Live Music *

Provision for facilities for making music *

Provision for facilities for dance *

Supply of Alcohol

(* Not previously licensed)

6. The following hours have been applied for in respect of (*Indoors only*) Live Music: -

Monday to Saturday 0900 – 0100

Sunday 0900 – 0900 Monday

7. The following hours have been applied for in respect (*All Indoors only*) Indoor Sporting Events, Provision for facilities for making music, Provision for facilities for making dance and the supply of alcohol (*Both On & Off Premises*): -*

All days of the week 0900 – 0100

The premises to be open for a further 30 minutes after these times.

8. Non Standard hours

The application applies for '**non-standard**' hours in all the licensable activities applied (except sale of alcohol): -

New Years Eve – from the end of permitted hours on New Years Eve until the start of permitted hours on New Years Day

In respect of the hours the premises are open to the public: -

New Years Eve – from the end of permitted hours on New Years Eve until the start of permitted hours on New Years Day

An additional hour to the standard permitted hours on the day when British Summertime commences.

10. Removal of Conditions

The application applies to remove the following conditions: -

Any restrictions which are placed on the licence by virtue of S8 paragraph 6(8) of the Licensing Act 2003 except: -

1. The extended permitted hours for the sale and consumption of alcohol and provision of regulated entertainment on New Years Eve/New Years Day

2. On the commencement of British Summer Time, the benefit of the clock going forward at 2.00 am or 3am in central London, instead of 1.00am GMT.

The restriction on drinking up time to be replaced with the finish time in Box 0

11. **Summary of Representations**

West Mercia Police

Have no representation to make.

Environmental Health

Environmental Health Officers have made representations in relation to the application. This representation addresses the licensing objectives of Public Nuisance and Public Safety.

In respect of Public Nuisance they seek conditions in relation to the prevention of noise and vibration, the use of the beer garden and the curtailing of some of the hours applied for.

In respect of public safety they ask for three general conditions and conditions to address Gas and Electricity Safety, Lighting and First Aid.

They request a further condition in relation to Indoor Sporting Events.

No conditions have been agreed at the time of this report.

The suggested conditions can be found within the background papers.

Fire Authority.

The fire authority has made comment upon the fact that the public capacity is stated as 100, which the authority have not verified.

Interested Parties.

The Local Authority has received 2 letters of representation in respect of the application, from local residents.

The concerns relate mainly to:

- Prevention of Public Nuisance
- Protection of Children from Harm

12. **Issues for Clarification**

This Authority has requested clarification on particular points from the parties shown.

Applicant – Tony BLOWS

Has been requested to provide clarification in respect of matters relating to the application as follows: -

Live Music

It has been noted that the application contains two pages in respect of the application for live music. The first page, which is unnumbered, applies for live music from 0900 hours Sunday to 0900 Monday. The second page numbered 10 appears to apply for the hours from 0900 to 0100 on Sundays, with the statement in non-standard timings concerning New Years Eve, having been crossed through.

The applicant has been asked to state which page relates to the application.

Provision for facilities for making music

Within this part of the application the 'details' regarding this activity state 'A DJ may be provided for discos etc'. It has been noted that the application form makes no application for recorded music.

The applicant has been asked to state exactly the reason why they apply for this on their licence.

Dancing

It is noted from the application that within the further for this activity it states 'Any area may be provided to allow dancing'.

The applicant has be asked to provide an updated plan to show the area where dancing will take place.

Removal of Conditions

The applicant has been asked to clarify the meaning of the statement 'On the commencement of British Summer Time, the benefit of the clock going forward at 2.00 am or 3am in central London, instead of 1.00am GMT'.

Toilets at Premises

Clarification is sort is as to whether the toilets are integral to the premises or external.

Car Parking

It is noted from the plan that there is no car park shown. The applicant has been asked to specify the location of the car park for the premises.

Description of Premises

The description of the premises states that 'The nearest neighbours are within 500 metres'. Clarification is sort as to the proximity of neighbours to the public house.

13. Herefordshire Council Licensing Policy

In making its decision the committee will be obliged to have regard to its own policy, the DCMS guidance and have regard to all documents specified within the DCMS Guidance.

14. Options: -

It is for the committee to take such steps below as it considers necessary for the promotion of the licensing objectives:

- Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003.
- Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it necessary for the promotion of the licensing objectives and add mandatory condition set out in the Licensing Act 2003.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premise supervisor
- To reject the application.

17. Background Papers

- Police Comments
- Environmental Health & Trading Standards Comments
- Application Form

Background papers are available for inspection in the Library, Shirehall, Hereford 30 minutes before the start of the hearing.

NOTES**Guidance issued under section 182 of the Licensing Act 2003, Section S18(7)****Relevant, vexatious and frivolous representations**

5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives....

5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious....

The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness....

LACORS Guidance

The following guidance was issued by LACORS on 14th June 2005: -

‘providing facilities for the public to dance is a licensable activity in terms of providing ‘entertainment facilities’ (Licensing Act 2003 Schedule 1 Paragraph 3(1) &

3(2)). **Therefore, the area where public dancing is to take place needs to be shown on the plan.** The precise location of the dance floor is unlikely to be necessary to be shown though, as long as the relevant room/part of the building is clearly marked.

Licensing Authorities power to exercise substantive discretionary powers.

The British Beer and Pub Association (2) The Association of Licensed Multiple Retailers (3) The British Institute of Inn keeping V Canterbury City Council.

Contesting the validity of the Licensing policy that asks for certain requirements before the application has been submitted. In the summing up the Judge states; The scheme of the legislation is to leave it to applicants to determine what to include in their applications, subject to the requirements of Section 17 and the Regulations as to the prescribed form and the inclusion of a statement of specified matters in the operating schedule. An applicant who makes the right judgement, so that the application gives rise to no relevant representations, is entitled to the grant of a licence without the imposition of conditions. The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision – making function under section 18 (3) is engaged.